

Order

Michigan Supreme Court
Lansing, Michigan

February 14, 2007

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-44

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of
Rule 7.306 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering alternative amendments of Rule 7.306 of the Michigan Court Rules. Before the Court determines whether the proposals should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposals or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The schedule and agendas for public hearings are posted on the Court's website at www.courts.mi.gov/supremecourt.

Publication of these alternatives does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of one of the proposals in its present form.

[Deletions are indicated by strikeout, and additions are indicated by underline.]

PROPOSAL A

Rule 7.306 Briefs in Calendar Cases

(A)-(C) [Unchanged.]

(D) Amicus Curiae Briefs.

- (1) Except as provided in subsection (2), An amicus curiae brief may be filed only on motion granted by the Court and must conform to subrules (A) and (B) and MCR 7.309. The time for filing the brief corresponds with the time for filing the brief of the party whose position the amicus curiae supports. An amicus curiae may not participate in oral argument except by Court order.

- (2) No motion for leave to file an amicus curiae brief is necessary if the brief is presented on behalf of the people of the state of Michigan or the state of Michigan or any of its agencies by the Solicitor General, on behalf of any political subdivision of the state when submitted by its authorized law officer, or on behalf of the Prosecuting Attorneys Association of Michigan or the Criminal Defense Attorneys of Michigan.

PROPOSAL B

Rule 7.306 Briefs in Calendar Cases

(A)-(C) [Unchanged.]

(D) Amicus Curiae Briefs.

- (1) Except as provided in subsection (2), ~~An amicus curiae brief may be filed only on motion granted by the Court and must conform to subrules (A) and (B) and MCR 7.309. The time for filing the brief corresponds with the time for filing the brief of the party whose position the amicus curiae supports.~~ The brief of an amicus curiae is to be filed within 28 days after the brief of the appellee, or at such other time as the Court directs. An amicus curiae may not participate in oral argument except by Court order.
- (2) No motion for leave to file an amicus curiae brief is necessary if the brief is presented on behalf of the people of the state of Michigan or the state of Michigan or any of its agencies by the Solicitor General, on behalf of any political subdivision of the state when submitted by its authorized law officer, or on behalf of the Prosecuting Attorneys Association of Michigan or the Criminal Defense Attorneys of Michigan.

Staff Comment: These proposed amendments would alter the requirements for filing amicus curiae briefs with the Michigan Supreme Court. Proposal A would add a provision similar to Rule 37.4 of the rules of the Supreme Court of the United States to allow state agencies and attorneys operating on behalf of public agencies to submit an amicus curiae brief without filing a motion to seek permission to do so. Proposal B includes the same proposed change and, in addition, would allow an amicus curiae 28 days after the filing of the appellee's brief to file its amicus curiae brief unless the Court directs otherwise. This provision would replace the current rule requiring an amicus

curiae to file a brief within the same time period in which the party it supports must file its brief.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the secretary of the State Bar of Michigan and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by June 1, 2007, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. All comments received within the public comment period will be posted on the Court's website at www.courts.mi.gov/supremecourt/resources/administrative/index.htm. When filing a comment, please refer to ADM File No. 2006-44.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 14, 2007

Corbin R. Davis
Clerk